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Senate Judiciary Committee - May 7<sup>th</sup>, 2013

Re: SB 300 & 301 (House Bills 4529 & 4530) – Indigent Defense – sponsor Senator Bruce Caswell

Chair Jones & Committee Members:

Good afternoon. Thank you for giving me the opportunity to speak. I also wish to thank Sen. Caswell, Rep McMillin and the co-sponsors of HB4529 & 4530 for introducing these bills. These bills represent the most important pieces of legislation that this legislative session will have to deal with.

Why? Because, not providing adequate and effective counsel is not only unconstitutional – as important – it results in the suffering and abuse of our most vulnerable citizens – the mentally ill and mentally disabled – especially children and ‘adult children’ affected with Fetal Alcohol Spectrum Disorders (FASD). This group makes up 75% of your jail and prison population. They cannot defend themselves.

It is unconscionable that the greatest nation in the world would neglect and abuse the most vulnerable. It is also a tremendous waste of our financial resources – resources that could be used to solve problems rather than make them worse. But you have heard this argument before.

My parents adopted two of MI’s foster children affected with FASD, 40 years ago. As a result, I have had more than my fair share of experience with the State’s failure to provide adequate legal counsel. I walked out of many court rooms not proud to call myself an American. It is the reason I have been here [in Lansing] for 6 years.

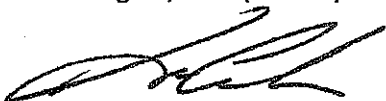
Inexpensive, ineffective lawyers cost money. The \$250 Kent County paid a ‘defender’ from the U.S. Attorney’s Office for the ‘defense’ of my adopted brother cost my family over \$300,000. Over the years, inadequate counsel for these two ‘boys’ has wasted millions of taxpayer dollars, not made us safer, caused much suffering and will continue to waste money and cause more suffering.

If you are going to continue to use the prison system as a substitute for proper mental health care, we must have a group of indigent defense attorneys who are trained and equipped to come to their defense – not ‘if’ – for it is almost inevitable that they ‘will’ – but when they come into contact with the criminal ‘justice’ system. Judges, prosecutors and police need to be trained as well.

Fix it please. Don’t worry about the details – they can be worked out later.

Take the first step towards creating an effective indigent defense system.

Pressing on, with (a lot of) unwavering faith,



Jim Casha

Attachment: FASD Widespread Among Inmates

## **FASD Widespread Among Inmates, Yet Overlooked Study Says**

According to a new report, individuals with FASD are at high risk for coming into contact with the criminal justice system, and as a result FASD is pervasive among both male and female inmate populations across the U.S. The report emphasizes an earlier finding that sixty percent of individuals ages 12 and older with FASD have been in trouble with authorities, charged or convicted, at some point in their lifetime.

The study, Substance Abuse and America's Prison Population by Columbia University's National Center on Addiction and Substance Abuse (CASA), finds that 64% of inmates have substance abuse disorders. The report states that, "FASD is one of the most common conditions that co-occurs with substance abuse disorders," and points out that, "Far less than one percent of expected cases [of FASD] have been identified in the criminal justice system." Among the report's recommendations are that, "Individuals with FASD [be provided with] appropriate services and support at every point in the criminal justice process, from arrest to imprisonment to reentry."

"To fulfill that goal," says NOFAS President Tom Donaldson, "first we have to diagnose FASD." He continued, "This is what happens when we as a society don't bother to diagnose children and adults with FASD. They don't get appropriate medical and mental health services, and then left untreated their poor impulse control, inability to understand the consequences of their behavior, and limited social and interpersonal skills can be tragic for them, and for others."

Donaldson agrees that if a person with FASD commits a crime they have to live with the consequences, but he adds, "The point is to prevent the crime in the first place by diagnosing FASD and helping people with the condition reach their potential. If you don't care about that, a diagnosis and proper care also saves taxpayer money and reduces crime. Maybe that's something that will motivate society to take action."

In addition to learning that justice system personnel are not properly qualified to address the needs of offenders with FASD, researchers also found that criminal courts rarely consider FASD a mitigating factor in a crime.

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